

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES DAWARD MELTON,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. C20-781-MLP

ORDER TO SHOW CAUSE

On December 9, 2020, Defendant filed its Answer in this matter. (Dkt. # 14.) On that same day, this Court issued an Order Setting Briefing Schedule. (Dkt. # 15.) Pursuant to the Court's Order, Plaintiff's opening brief was due by January 6, 2021, Defendant's response brief was due by February 3, 2021, and Plaintiff's reply brief was due on February 17, 2021. (Dkt. # 15). To date, neither party has filed a brief, an extension request, or any form of update on this case with the Court.

It is within the inherent power and discretion of the court to dismiss a civil case for lack of prosecution. Fed. R. Civ. P. 41(b); *see McKeever v. Block*, 932 F.2d 795, 797 (9th Cir. 1991) (failure to prosecute must be unreasonable in order to support dismissal); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir. 1984). The Court weighs five factors to determine if involuntary

1 dismissal for lack of prosecution is proper. *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir.
2 2002) (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)). Specifically, the Court
3 considers: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
4 manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives. *Id.*
6 Dismissal is proper where at least four factors support dismissal or where at least three factors
7 "strongly" support dismissal. *Beck v. Pike*, 2017 WL 530354, at *5 (W.D. Wash. Feb. 9, 2017)
8 (quoting *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998)).

9 Accordingly, Plaintiff is ORDERED to show cause by **March 1, 2021**, why the Court
10 should not dismiss the complaint in this matter for failure to prosecute. Absent a timely response
11 to this Order, this action will be dismissed without prejudice.

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13 Dated this 22nd day of February, 2021.

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15 MICHELLE L. PETERSON
16 United States Magistrate Judge
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